

Clerk, U.S. District Court
Southern District of Texas
FILED

FEB 01 2017

A091 (Rev. 8/01) Criminal Complaint

David J. Bradley, Clerk of Court

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

UNITED STATES OF AMERICA

V.

Roberto MARTINEZ Jr.

CRIMINAL COMPLAINT

Case Number:

C-17-98M

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about January 31, 2017 in Brooks County, in the

(Date)

Southern District of Texas defendant, **Roberto MARTINEZ Jr.**

did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

In violation of Title 8 United States Code, Section(s) 1324.
I further state that I am a(n) Border Patrol Agent and that this complaint is based on the
following facts:
Official Title

See Attached Affidavit of U.S. Border Patrol Agent

Jorge A. Muñoz

Continued on the attached sheet and made a part of this complaint:

☒ Yes☐ No

Sworn to before me and signed in my presence, and probable cause found on the:

February 1, 2017

Date

Jason B. Libby U.S. Magistrate Judge

Name and Title of Judicial Officer

at

Signature of Complainant

Jorge A. Muñoz

Printed Name of Complainant

Corpus Christi, Texas

City and State

Signature of Judicial Officer

AFFIDAVIT

The information contained in this report/affidavit is based upon my personal participation in the investigation, which included, but is not limited to information relayed to me by other agents and officers participating in the investigation.

SYNOPSIS:

On January 31, 2017, Falfurrias Border Patrol Agents encountered Roberto MARTINEZ Jr. at the Falfurrias Border Patrol Checkpoint attempting to smuggle one undocumented alien.

ENCOUNTER:

On January 31, 2017, Border Patrol Agent (BPA) Roberto Cortez was working the primary inspection lane at the U.S. Border Patrol Checkpoint, 13 miles south of Falfurrias, Texas on Highway 281. At approximately 10:20 a.m., a 1999 Mercedes-Benz Sport Utility Vehicle bearing Texas license plate GPX1265 approached the primary inspection lane for an immigration inspection. As the vehicle approached, BPA Cortez observed one visible occupant in the vehicle.

When the vehicle came to a stop, the driver, later identified as Roberto MARTINEZ Jr, presented a valid Texas Identification (ID) Card. BPA Cortez asked MARTINEZ if he had a valid driver's license, to which he stated that he did but it was not in his immediate possession. At that moment, BPA Cortez remembered that he had a previous encounter with MARTINEZ at the Falfurrias Border Patrol Checkpoint approximately one week earlier. On that occasion, MARTINEZ told BPA Cortez that he was going to Dallas, Texas, to drop off a family member. BPA Cortez took note on that occasion that he did not have a valid driver's license and only presented a Texas ID card. BPA Cortez told MARTINEZ that he was required to carry his license by state law and MARTINEZ stated he would carry it next time. BPA Cortez found it suspicious that he had encountered MARTINEZ twice on separate occasions without his driver's license. BPA Cortez asked MARTINEZ where he was traveling to on this occasion. MARTINEZ immediately became visibly nervous and started to stutter with his words. MARTINEZ stuttered that he was traveling to Dallas, Texas to visit. BPA Cortez asked him if he passed through the Falfurrias Border Patrol Checkpoint often, because BPA Cortez had seen him the week prior. MARTINEZ stated he did not really travel too often. BPA Cortez asked MARTINEZ for consent to open the back hatch of the SUV, and he granted his request. BPA Cortez was unable to open the back hatch, in what appeared to be a faulty hatch door. MARTINEZ was referred to secondary for further inspection due to his nervous behaviors, his inconsistent story, and our inability to view the back compartment of the SUV.

Once in the secondary inspection area, MARTINEZ was asked to exit the vehicle. BPA R. Guerra and his canine partner "HENKI" performed a consensual search of the vehicle and "HENKI" immediately alerted to the rear of the SUV. BPA Guerra was unable to open the rear hatch, so he entered the vehicle through the back door. As soon as he entered, he noticed one individual hiding in the rear compartment area. The rear hatch was opened and the individual, later identified as ORTIZ-Avila, Bayron Daniel, was escorted away from the SUV. ORTIZ-Avila was interviewed and claimed to be citizen and national of Honduras without the necessary legal documents to enter,

pass through, or to remain in the United States. ORTIZ-Avila also admitted to illegally crossing the international boundary without being inspected by an immigration officer at a designated Port of Entry.

MARTINEZ Jr. and ORTIZ-Avila were placed under arrest and escorted inside the checkpoint for processing.

MIRANDA WARNING: Roberto MARTINEZ JR

Once inside the checkpoint, BPA Roberto Cortez read Roberto MARTINEZ Jr. his Miranda Rights in his preferred language of English with BPA K. Caruthers as a witness. MARTINEZ acknowledged that he understood his Miranda Rights and refused to answer questions without a lawyer present.

NOTE:

Roberto MARTINEZ Jr. has a previous alien smuggling case from Hebbronville, Texas on October 10, 2016.

MIRANDA WARNING: ORTIZ-Avila, Bayron Daniel


SBPA C. Marchmont read ORTIZ-Avila, Bayron Daniel his Miranda Rights in his preferred language of Spanish with BPA O. Garcia as a witness. ORTIZ-Avila, acknowledged that he understood his Miranda Rights and agreed to answer questions without a lawyer present.

STATEMENT:

ORTIZ-Avila, Bayron Daniel stated that he paid an unknown smuggler in Honduras \$3,000.00 USD to be taken to the U.S./Mexico border. ORTIZ-Avila stated his family was asked to pay another \$1,500.00 USD to be taken across the U.S./Mexico border. ORTIZ-Avila stated that after he crossed the U.S./Mexico border, he was taken to two separate stash houses. ORTIZ-Avila stated that on 01/31/2017, he met with Roberto MARTINEZ Jr., and MARTINEZ told him to get into the back luggage compartment area of the vehicle he was arrested in today (1/31/2017). ORTIZ-Avila, Bayron Daniel stated that after he was in the vehicle, the vehicle drove approximately 45 minutes until they both arrived at the U.S. Border Patrol Checkpoint. ORTIZ-Avila, Bayron Daniel identified MARTINEZ via photo lineup as the driver of the vehicle and as the person who told him to get into the vehicle.

DISPOSITION:

The facts of this case were presented to Assistant United States Attorney Amanda Gould who accepted Roberto MARTINEZ Jr. for prosecution of 8 USC 1324, Alien Smuggling. Bayron Daniel ORTIZ-Avila will be held as a Material Witness.



Jorge A. Muñoz
Border Patrol Agent

Sworn to before me, signed in my presence, and
probable cause found on this day February 1, 2017



Jason B. Libby
United States Magistrate Judge